



# WASHOE COUNTY

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CM/ACM KS  
Finance DN  
DA [Signature]  
Risk Mgt N/A  
HR N/A  
Clerk [Signature]

## STAFF REPORT

BOARD MEETING DATE: November 12, 2014

**DATE:** October 22, 2014  
**TO:** Board of County Commissioners  
**FROM:** Dave Solaro, Arch., P.E., Director  
Community Services Department, 328-2040, [dsolaro@washoecounty.us](mailto:dsolaro@washoecounty.us)  
**THROUGH:** Kevin Schiller, Assistant County Manager  
**SUBJECT:** Second reading and adoption of an Ordinance amending Chapter 40 of the Washoe County Code (water and sewage) by revising provisions of the code to rename and restructure the department, and delete reference to the Water Planning Commission based on the consolidation of the Washoe County Water Utility with the Truckee Meadows Water Authority; and other matters properly related thereto, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and Truckee Meadows Water Authority merger. (All Commission Districts.)

### SUMMARY

The purpose of this report is to support the merger of Washoe County Community Services Water Utility (CSWU) with the Truckee Meadows Water Authority (TMWA) by recommending the Board of County Commissioners (Board) approve amendments to the Washoe County Code (WCC) chapter 40 (water and sewage) regarding the name of the department and its structure, and deleting reference to the Water Planning Commission.

The adoption of this ordinance does not impose, increase or change the basis of calculation of a fee that is paid in whole or in substantial part by a business. There is no economic burden on the formation, operation or expansion of a business, and therefore, no business impact statement is required.

Washoe County Strategic Objective supported by this item: Sustainability of our financial, social and natural resources.

### PREVIOUS ACTION

Effective April 1, 2008, the Western Regional Water Commission, as a result of the 2007 Western Regional Water Commission Act, was established and began providing for integrated regional water resources and management of water supplies.

AGENDA ITEM # 12

On December 9, 2009, the Board entered into an interlocal agreement with the TMWA Board of Directors governing a proposed merger of CSWU.

On March 19, 2014, the Board and the TMWA Board of Directors held a joint meeting and directed staffs from both entities to complete the merger with an anticipated closing date to occur in December 2014.

On October 28, 2014, the Board held the introduction and first reading of an Ordinance amending Chapter 40 of the WCC (water and sewage) by revising provisions of the code to rename and restructure the department, and delete reference to the Water Planning Commission based on the consolidation of the Washoe County Water Utility with the TMWA; and other matters properly related thereto; and, set a public hearing for second reading and possible adoption for November 12, 2014, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and TMWA merger.

### **BACKGROUND**

At the direction of the Board, Washoe County staff has been working on a merger of CSWU with TMWA since 2008. On December 9, 2009, the Board entered into an interlocal agreement with the TMWA Board of Directors governing a proposed merger of the CSWU. From that point forward County and TMWA staffs have been working diligently to complete the merger of the two water utilities.

Staffs from the two entities have been reviewing the Washoe County Code in conjunction with the water utility merger. Changes to chapter 40 (Water and Sewage) are proposed that rename and reorganize the department due to the consolidation of the water utilities and the creation of the Community Services Department (CSD).

Changes include the renaming of the Department of Water Resources to the Department of Utility Services to include Sewer, Reclaimed Water, and Stormwater drainage. Further the Department of Utility Services is defined to work under the direction of the director of the Community Services Department created in Chapter 130 of the Washoe County Code.

The deletion of reference and provisions related to the Water Planning Commission is a cleanup process while this chapter of the WCC is being modified. In 2007 the Nevada State Legislature enacted the Western Regional Water Commission Act which created both the Western Region Water Commission (WRWC) and the technical advisory to that group the Northern Nevada Water Planning Commission (NNWPC). The authority described under the Water Planning Commission section of chapter 40 is now obsolete and can be removed without any impact to Washoe County.

### **FISCAL IMPACT**

There is no fiscal impact directly related to modifications recommended by staff.

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners hold a second reading and adopt an Ordinance amending Chapter 40 of the Washoe County Code (water and

sewage) by revising provisions of the code to rename and restructure the department, and delete reference to the Water Planning Commission based on the consolidation of the Washoe County Water Utility with the Truckee Meadows Water Authority; and other matters properly related thereto, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and Truckee Meadows Water Authority merger.

**POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be: "Move to hold a second reading and adopt an Ordinance amending Chapter 40 of the Washoe County Code (water and sewage) by revising provisions of the code to rename and restructure the department, and delete reference to the Water Planning Commission based on the consolidation of the Washoe County Water Utility with the Truckee Meadows Water Authority; and other matters properly related thereto, with the ordinance to become effective concurrent with the effective date of the Washoe County Water Utility and Truckee Meadows Water Authority merger."

SUMMARY: Changes or deletes references in the Washoe County Code to the Department of Water Resources due to consolidation of water utility operations with Truckee Meadows Water Authority.

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 40 OF THE WASHOE COUNTY CODE (WATER AND SEWAGE) BY REVISING PROVISIONS OF THE CODE TO RENAME AND RESTRUCTURE THE DEPARTMENT, AND DELETE REFERENCE TO THE WATER PLANNING COMMISSION BASED ON THE CONSOLIDATION OF THE WASHOE COUNTY WATER UTILITY WITH THE TRUCKEE MEADOWS WATER AUTHORITY; AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

Section 1. Chapter 40 of the Washoe County Code is amended and shall read as follows:

CHAPTER 40

WATER AND SEWAGE

Waste of Water

- 40.010 Exercise of authority by county commissioners.
- 40.020 Purpose; intent.
- 40.030 Definitions.
- 40.040 "Customer" defined.
- 40.050 Department" defined.
- 40.060 "Excessive" defined.
- 40.070 "Hand watering" defined.
- 40.080 "Irrigate" defined.
- 40.090 "Person" defined.
- 40.100 "Public water system" defined.
- 40.110 "Running to waste" defined.
- 40.120 "Shall" defined.
- 40.130 "Unincorporated area" defined.
- 40.140 "Wastage of water" defined.
- 40.150 "Wastewater" defined.
- 40.160 "Water" defined.
- 40.170 Waste of water prohibited.
- 40.180 Definition of "waste" of water; classification of conditions under which consumption or expenditure of water is wasteful.
- 40.190 Tampering with water meter prohibited.
- 40.200 Accidental wastage of water; notice of violation

- precondition to prosecution for violation.
- 40.210 Furnishing water used in violation of sections 40.010 et seq. unlawful.
- 40.220 Enforcement.
- 40.225 Prohibited uses of water and planting of lawns.
- 40.230 Conditions constituting wasteful use of water under emergency circumstances.
- 40.240 Designation of areas within unincorporated area for emergency enforcement.
- 40.250 Presumption.
- 40.260 Infraction; notice and filing with agencies of infraction; service; duties of respondent; judicial enforcement.
- 40.265 Appeal; notice of appeal; judicial enforcement of fine or assessment.
- 40.266 Schedule of civil fines and assessments.

#### Pollution of Lake Tahoe

- 40.270 Unlawful pollution of waters of Lake Tahoe; penalty.

#### Department of Utility Services

- 40.280 Creation of department of utility services.
- 40.290 Creation of position of director of utility services.
- 40.300 Powers, duties of director of utility services.
- 40.310 Divisions of department of utility services enumerated.

#### Water and Sanitary Sewer Financial Assistance Program

- 40.335 Purpose and Authority.
- 40.336 Finding of Public Purpose and Benefit.
- 40.337 Establishment of Financial Assistance Program.
- 40.338 Title.
- 40.339 Definitions.
- 40.340 Administrator's Program Authority.
- 40.341 Applicability.
- 40.342 General Eligibility for Loans and Program Funding.
- 40.343 Financial Assistance Application Process.
- 40.344 Authorized Expenditures.
- 40.345 Construction Requirements.
- 40.346 Loan Commitments.
- 40.347 Repayment Procedure for Program Loans.
- 40.348 Collection of Delinquencies.

Department of the Truckee River Flood Management Project

- 40.400 Creation of the Department of the Truckee River Flood Management Project: Purpose.
- 40.410 Creation of the position of flood management project director.
- 40.420 Duties of the flood management project director.

The Truckee River Flood Protection Financial Assistance Ordinance.

- 40.450 Title.
- 40.451 Recitals.
- 40.452 Findings.
- 40.453 Definitions.
- 40.454 Establishment and Administration of Financial Assistance Program.
- 40.455 General Eligibility for Grants.
- 40.456 Application Process and Fees.
- 40.457 Grant Commitments; Owner Responsibilities.
- 40.458 Contractor Registry and Training.
- 40.459 Residential Elevation or Relocation Assistance.
- 40.460 Commercial Building Flood Proofing Assistance.

Section 2. Section 40.050 of the Washoe County Code is amended and shall read as follows:

40.050 "Department" defined. Unless specified otherwise in sections 40.010 to 40.266, inclusive, "department" refers to the department of utility services of the county under the supervision and direction of the director of community services, which department is hereby designated as the official governmental agency responsible for coordinating and supervising the enforcement of sections 40.010 to 40.266, inclusive.

Section 3. Section 40.160 of the Washoe County Code is amended and shall read as follows:

40.160 "Water" defined. "Water" refers to all water, including wastewater, supplied from a public water system to any customer who uses water.

Section 4. Section 40.180 of the Washoe County Code is amended and shall read as follows:

40.180 Definition of "waste" of water; classification of conditions under which consumption or expenditure of water is

wasteful. The existence of any of the following conditions involving the use, consumption or expenditure of water shall constitute prima facie evidence of the "waste" of water within the meaning of sections 40.010 to 40.266, inclusive:

1. Wastage of water.
2. Use of water through any meter or other facility when the customer or his agent or representative responsible for the use of such water has been given 24 hours personal notice to repair one or more leaks in any piping system or any plumbing fixture connected directly or indirectly to such meter or other facility and such customer or his agent or representative has failed to complete such repairs.
3. Using water or permitting the use of water in violation of any notice served on any person by the director of community services or his agent or representative as provided in sections 40.010 to 40.266, inclusive.
4. Using water in violation of any of the paragraphs of subsection 2 of section 40.230 after an emergency has been established by action of the board in accordance with the procedure set forth in section 40.230.
5. The washing of automobiles, trucks, trailers or any other type of mobile equipment, except in washing facilities operating with a water recycling system or using a nonpotable water source approved by the director of community services with a prominently displayed sign in public view so stating, except where required by health and sanitary regulation, and except with a hose to which a self-closing nozzle is attached.

Section 5. Section 40.200 of the Washoe County Code is amended and shall read as follows:

40.200 Accidental wastage of water; notice of violation precondition to prosecution for violation. If any violation of sections 40.010 to 40.266, inclusive, is the result of any accidental breaking of any hose, water pipe, irrigation device or system, or any other component of a water delivery system, which accident or emergency is beyond the control of any customer where the violation occurs, personal notice of such violation shall be given by the director of community services or his agent or representative to the customer or person or an agent or representative of the customer having the custody, control or responsibility for the property or who has a pecuniary interest therein. Such notice shall direct that the situation or condition causing the violation of sections 40.010 to 40.266, inclusive, be corrected within 24 hours from the time of the receipt of such notice. If any violation of sections 40.010 to 40.266, inclusive, has not been corrected within such time, it shall constitute an unlawful condition within the meaning of section 40.180 and shall be punishable as provided in

section 40.266.

Section 6. Section 40.210 of the Washoe County Code is amended and shall read as follows:

40.210 Furnishing water used in violation of section 40.010 et seq. unlawful.

1. The director of community services or his authorized agent or representative may issue an appropriate notice to any person representing a public water system which is not doing business as a utility regulated by the public service commission of Nevada but which furnishes water to any customer for business, manufacturing, agricultural or household use, which notice may specify that any customer or person who is being furnished water is in violation of sections 40.010 to 40.266, inclusive.

2. Upon receipt of such notice, the person who furnishes or supplies water shall take all appropriate steps to correct and eliminate any violation of sections 40.010 to 40.266, inclusive, within 24 hours of receipt of any such notice from the director of community services. Any supplier of water who receives a notice as provided in this section shall make every effort to notify the customer responsible for the waste of water in violation of sections 40.010 to 40.266, inclusive, to correct and eliminate the violation.

3. It is unlawful for any person to continue to furnish water to any customer on whose property any violation of sections 40.010 to 40.266, inclusive, is allowed to continue more than 24 hours after receipt of the notice provided for in this section from the director of community services, unless the director of community services extends such time limit in writing upon request of the water supplier.

Section 7. Section 40.220 of the Washoe County Code is amended and shall read as follows:

40.220 Enforcement. The department of community services and the Truckee Meadows Water Authority, their officers and designated employees, agents or representatives have the duty and are hereby authorized to enforce the provisions of sections 40.010 to 40.266, inclusive, including the issuance of any notice required or authorized by sections 40.010 to 40.266, inclusive.

Section 8. Section 40.230 of the Washoe County Code is amended and shall read as follows:

40.230 Conditions constituting wasteful use of water under emergency circumstances.

1. Upon a finding that a water emergency condition exists or



is likely to exist, the board may declare the existence of emergency conditions by the adoption and publication in a newspaper having general circulation in the county of an appropriate resolution stating the nature of the emergency, the area or areas of the county subject to the emergency conditions, and the reasons and findings necessitating the preservation of water and the elimination of all uses that would result in the waste of water by customers of a public water system, in order to preserve and protect the general health, welfare, safety and convenience of the citizens residing in the unincorporated area of the county or designated areas therein. In making a finding that a water emergency condition exists or is likely to exist, the board shall consider:

(a) The amount of recorded precipitation during the preceding year in the area affected in relation to the normal precipitation recorded for such area;

(b) The amount of water contained in any reservoir, storage basin (including without limitation any underground water supply basin), or other water supply facilities utilized by any public water system in the area affected in relation to the projected water use from such reservoir, storage basin or other water supply facility;

(c) The level of stream flows in the area affected in relation to normal stream flows;

(d) The existence or the probability of existence of an order from any federal water master or other official having jurisdiction in the area in question that any diversion that may be made from any river or stream to satisfy the water rights of any public water system serving customers in the county is insufficient to satisfy such water rights; or

(e) The existence or the probability of existence of circumstances related to the ability of a water purveyor to provide an adequate water supply to its customers.

(f) The recommendation of the Truckee Meadows Water Authority Board for the declaration of a water emergency.

2. When an appropriate resolution has been adopted by the board, the following conditions shall apply in specifying the kinds and amounts of consumption or expenditure of water which will be deemed and presumed to be "wasteful" within the meaning of section 40.180:

(a) Except when acting pursuant to a dust control permit issued by the district health department, use of water for allaying dust, unless a permit for such use is issued by the director of community services or his agent or representative to enable an applicant for such permit to comply with any other valid law, regulation or ordinance;

(b) Use of water to wash any sidewalk, walkway, driveway, street, parking lot, tennis court or other hard-surfaced area, if the director of community services has issued a public notice

or published such notice in a newspaper of general circulation in the county directing the discontinuance of such use of water for the period of time specified in such notice. Such notice shall be a condition precedent to any violation of this subsection and shall be based on a finding by the director of community services that the public health, safety, and convenience requires such a restriction on such use of water because of limited water supplies. The director of community services may rely on representations from any public utility that supplies water to customers in making such a finding;

(c) Use of water from fire hydrants for any purpose other than extinguishing fires or use in county maintenance vehicles;

(d) Use of water for any outdoor decorative purpose; and

(e) Restaurant practice of serving water to customers except upon request of said customers.

Section 9. Section 40.260 of the Washoe County Code is amended and shall read as follows:

40.260 Infraction; notice and filing with agencies of infraction; service; duties of respondent; judicial enforcement.

1. Except as otherwise exempted herein, it is a civil infraction for any customer of a public water system to waste water.

2. Whenever any customer of a public water system is found to be in violation of sections 40.010 to 40.266, inclusive, a notice of infraction must be issued.

3. The notice of infraction must be on a form prescribed by the director of community services and contain the following:

(a) The location at which the violation occurred;

(b) The date and time of the violation;

(c) The section of the code allegedly violated;

(d) Information providing the date and time of a hearing and procedure under which the notice should be answered;

(e) Any other information prescribed by the director of community services;

(f) The signature of the person who issued the notice of infraction.

4. The original notice of infraction, or a facsimile thereof, must be filed with the director of community services and maintained as a public record. The filed notice shall constitute prima facie evidence of the facts which are alleged therein. A duplicate of the notice of infraction must be served on the person to whom it is issued as provided herein. If the infraction occurs within the service territory of the Truckee Meadows Water Authority, a copy of the notice of infraction is to be filed with the general manager of the Truckee Meadows Water Authority and maintained therein as a public record.

5. Service of a duplicate notice of infraction shall be as

follows:

- (a) By personal service upon the customer;
- (b) By fixing the notice to the property of the customer in a conspicuous place, which service shall have the same force and effect and is subject to the same penalties for the disregard thereof, as if the notice were personally served on the customer.

6. For purposes of this section, a customer who is not the owner of the real property to which water is supplied by a public water system, but who occupies or uses said real property with the permission of the owner, express or implied, is deemed to be the agent of the owner to receive a notice of infraction, whether said notice is personally served on the occupier or user or affixed to the real property.

7. A customer is liable for the civil fines imposed pursuant to section 40.266. The owner of the real property, even if not the occupant or user thereof, is also liable for such civil fines unless he is able to demonstrate that the waste of water was without his permission, express or implied. An owner who pays a civil fine pursuant to section 40.266 has the right to recover from the occupant or user of the real property the civil fines so paid, and has a cause of action in any court which has the appropriate jurisdiction against the occupant or user of the real property for the amount so paid.

8. A person responding to a notice of infraction must:

(a) "Admit" the commission of the infraction and pay the designated civil fine; said fine may be paid by mail or in person to the department of community services and without any formal appearance.

(b) "Deny" the commission of the infraction; said denial must be made in person on the date and time set on the notice unless a continuance has been granted by the director of community services.

9. The burden to prove any defense shall be upon the person raising said defense.

10. If the director of community services, or designated hearing officer, determines that the infraction has not occurred or that an infraction has been committed but a reasonable defense exists for the commission thereof, the director of community services, or designated hearing officer, may dismiss the notice of infraction and release the customer or owner from liability thereunder.

11. The director of community services shall notify the Truckee Meadows Water Authority when an infraction within the Truckee Meadows Water Authority service territory has been resolved, either through payment of the fine or by dismissal.

Section 10. Section 40.265 of the Washoe County Code is amended and shall read as follows:

40.265 Appeal; notice of appeal; judicial enforcement of fine or assessment.

1. A person against whom the director of community services, or designated hearing officer, has entered a finding of liability and assessment of fine, by default or otherwise, may, if the assessed fine has been paid, appeal to justice court within ten (10) days from the date of entry of the finding and assessment. Appeal may be made by filing with the director of community services a written notice containing the appellant's name, current address, telephone number, notice of infraction number, and a statement that the appellant appeals the finding and assessment.

2. Upon receipt of timely notice of appeal the director of community services shall forward the notice of appeal, together with a copy of the notice of infraction and a copy of the director of community services, or designated hearing officer's, finding and assessment to the appropriate justice court and a copy of the same to the district attorney. The director of community services shall provide a copy of any appeal relating to an infraction within the Truckee Meadows Water Authority territory to the Truckee Meadows Water Authority.

3. On appeal, the matter shall be resolved as a civil action, except that no formal complaint need be filed or summons issued. The filing of the notice of appeal shall constitute a submission by the appellant to the jurisdiction of the appropriate justice court and to all notices and orders issued by said court during appeal and to final judgment of said court on resolution of the appeal.

4. If a fine or assessment has been made by the director of community services, or designated hearing officer, and has not been paid when due, judicial enforcement may be by way of civil suit for judgment in the appropriate justice court. Such action may be commenced any time after the expiration of forty (40) days following the date upon which the fine or assessment was due by the filing of a complaint in the name of the county and the issuance and service of a summons by certified mail, return receipt requested, addressed to the customer or owner at his last known address or in any other manner authorized by law.

Section 11. Section 40.266 of the Washoe County Code is amended and shall read as follows:

40.266 Schedule of civil fines and assessments. The civil fines and assessment imposed for infractions of sections 40.010 to 40.266, inclusive, shall be as established by the director of community services and approved by the board.

Section 12. Section 40.280 of the Washoe County Code is amended and shall read as follows:

## Department of Utility Services

### 40.280 Creation of department of utility services.

1. There is hereby created the Washoe County department of utility services.

2. The department shall be responsible primarily for the planning, management and operation of utilities including, but not limited to, sewer, reclaimed water, and stormwater drainage, as assigned by the board of county commissioners.

Section 13. Section 40.290 of the Washoe County Code is amended and shall read as follows:

### 40.290 Creation of position of division director of engineering and capital projects.

1. The position of division director of engineering and capital projects is hereby created. The division director shall be appointed by and is responsible to the director of community services.

2. The director of community services shall appoint, pursuant to the provisions of chapter 5 of this code regulating county personnel, such professional, technical, clerical and operational staff as the execution of his duties and the operation of his department may require.

Section 14. Section 40.300 of the Washoe County Code is amended and shall read as follows:

40.300 Powers, duties of division director of engineering and capital projects. The division director of the enumerated utility services has such powers and duties as are delegated to and conferred upon him by the director of community services in administering the operations of the enumerated utility services. The division director of engineering and capital projects shall, as delegated and conferred by the director of the community services, direct and supervise all planning, administrative and technical activities of the department of utility services.

Section 15. Section 40.310 of the Washoe County Code is amended and shall read as follows:

40.310 Services of department of utility services enumerated. The department of utility services shall consist of:

1. Reclaimed water services;
2. Sanitary sewer services;
3. Stormwater drainage services;
4. Resource planning and management services; and
5. Such other services as the board of county commissioners may in its discretion from time to time establish.

Section 16. Sections 40.320 and 40.330 of the Washoe County Code are repealed.

Section 17. Sections 40.500 through 40.590 of the Washoe County Code are repealed.

SECTION 18. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 19. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases, or sentences contained in other Washoe County ordinances in conflict herewith are hereby repealed.

SECTION 20. This ordinance shall be published by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Washoe County, Nevada, at least once a week for a period of two (2) weeks, and shall be in force and effect thereafter.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
Proposed by Commissioner \_\_\_\_\_.  
Passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Vote:

Ayes:

Nays:

Absent:

\_\_\_\_\_  
David Humke, Chairman  
Washoe County Commission

ATTEST:

\_\_\_\_\_  
County Clerk

This ordinance shall be in force and effect from and after the \_\_\_\_\_ day of \_\_\_\_\_, 2014.